

## International Boundary and Water Commission

## § 1102.2

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AUTHORITY: 5 U.S.C. 552 (Pub. L. 90-23, as amended by Pub. L. 93-502 and 99-570).

SOURCE: 55 FR 35898, Sept. 4, 1990, unless otherwise noted.

### § 1102.1 Purpose.

The purpose of this part is to prescribe rules, guidelines and procedures to implement the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended on November 21, 1974, by Public Law 93-502, and on October 27, 1986, by Public Law 99-570.

### § 1102.2 Definitions.

*Act* means the Freedom of Information Act, 5 U.S.C. 552, as amended.

*Commercial-use request* refers to a request from or on behalf of one who seeks information for a cause or purpose that furthers the commercial, trade, or profit interests of the requester or person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Section will consider how the requester will use the documents.

*Commissioner* means head of the United States Section, International Boundary and Water Commission, United States and Mexico.

*Direct costs* means those expenditures which the Section actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility where the records are stored.

*Disclose or disclosure* means making records available, on request for exam-

ination and copying, or furnishing a copy of records.

*Duplication* refers to the process of making a copy of a document in response to a FOIA request. Such copies can take the form of paper, microform, audiovisual materials, or machine-readable documentation. The Section will provide a copy of the material in a form that is usable by the requester unless it is administratively burdensome to do so.

*Educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

*Noncommercial scientific institution* refers to an institution that is not operated on a "commercial" basis as that term is referenced above, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

*Person* or *Requester* includes any individual, firm, corporation, organization or other entity.

*Records* and/or *information* are defined as all books, papers, manuals, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the Section under Federal law or in connection with the transaction of public business or in carrying out its treaty responsibilities and obligations, and preserved or appropriate for preservation by the Section as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the information value of the data in them, but does not include books, magazines or other material acquired solely for library purposes and through other sources, and does not include analyses, computations, or compilations of information not extant at the time of the request. The term "records" does not include objects or articles such as structures, furniture, paintings, sculptures, three-dimensional models, vehicles, and equipment.